

INTELLECTUAL PROPERTY RIGHTS:

Enhancing local innovation and economic development depends on the efficiency of intellectual property protection

Estonia has become known around the world as an innovative country. Recently, the new President of the Republic has also emphasized, that the development of economy through innovation would be essential for Estonia. AmCham Estonia Intellectual Property Committee fully supports this goal, which means a constant creation of new and better solutions, techniques and technologies. It also means high expectations from the state, in terms of providing a very effective protection of relevant intellectual property (IP) to keep the innovators and innovations in Estonia and continuing to contribute to Estonian economy in the long term. .

We believe that only a stable and clear system of IP protection ensures innovation, development and economic prosperity in Estonia.

AmCham raises the following issues for maintained attention:

1. There is an insecurity related to the protection of IP and enforcement of IP rights in Estonia, which undermines entrepreneurship and prevents the development of innovation.
2. The focus needs to be on protecting the Creator (IP right-holder) versus the interests of the Consumer (end-user).
3. Legal environment and practice should help shape business ethics that respects IP rights, starting at the level of the members of the management bodies of domestic legal persons.
4. There is a need for more legal clarity for IP related proceedings (incl. criminal and civil proceedings)
5. Enforcement of the IP protection creates confusion as almost all pending (criminal) cases have been terminated and new legal environment discourages the initiation of new cases.
6. The IP right-holders are often not able to effectively protect their rights and claim proper compensation for the damage incurred – complicated legislative proceedings result in delays and insufficient compensations.
7. Restrictions to IP rights should be avoided within any sector – there is a need to ensure that the international trademark rights are not violated.

Recommendations to effectively deal with the issues noted:

1. Move the protection of IP up the the state's priorities list, including improvements of administrative capacity in detecting and combating offences for the legal protection to function in essence. Recognize the contribution of IP creators to the economic development and keep an open dialogue with them. Declare that IP is valuable and support it by ensuring the effective IP protection (both in legislative and executive level).
2. Systematically educate the public about the value of intellectual property (e.g. expanding intellectual property-related education in schools, carry out awareness campaigns etc.).
3. Oblige the members of management bodies of legal persons to monitor and verify the use of intellectual property in the company and have the solidary liability with the company under civil law.
4. Public sector is in the best position to lead in implementing effective control procedures in public procurements to ensure that companies abusing intellectual property rights would not be able to sell goods or services to the public sector. We note with concern that the new Public Procurement Act (draft law 204 SE) excludes the previously explicit demand to check the IP rights are protected in public procurements.
5. Clarify and eliminate new administrative burdens for the officials caused by the Penal Act changes and make dealing with IP infringements clear and simple.
6. Establish preventive (punitive) compensation for damage, in order to ensure the compensation of damage (e.g. in the sum of the two- or threefold standard price of the infringed right).
7. Protect international trademark rights in line with the EU trademark law.

AmCham IP Committee is committed to working with the Estonian institutions and policy-makers to further develop a strong, cost effective system for obtaining, licensing and enforcing intellectual property rights for all parties involved.